

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

EDWARD TAVARES, JR.

Petitioner,

v.

**COMMONWEALTH OF
MASSACHUSETTS et al,**

Respondent(s).

**Civil Action No.
04-40059-FDS**

ORDER

SAYLOR, J.

On April 26, 2004, Edward Tavares, Jr. filed a 37-page petition for writ of habeas corpus pursuant to 28 U.S.C. §§ 2254 and 2255.¹ Thereafter, on May 18, Steven O'Brien, superintendent of the institution where Tavares is incarcerated, filed a motion to require Tavares to submit a petition in compliance with Rule 2(c) of the Rules Governing Habeas Corpus Cases Under Section 2254 in the United States District Courts. That motion is GRANTED. Tavares shall file an amended petition that complies in all respects with Rule 2(c). A copy of Rule 2(c) and a blank copy of the requisite form is attached hereto.

Moreover, in his petition, Tavares mistakenly named the "Commonwealth of Massachusetts et al" as the respondent(s).² Pursuant to Rule 2(a) of the Rules Governing Habeas

¹ In his petition, Tavares challenges his state court conviction and sentence on the grounds that he was denied ineffective assistance of counsel. Because he does not appear to be challenging a sentence imposed by this Court, 28 U.S.C. § 2255 is not applicable.

² Aside from a reference to "Paul Walsh D.A." on the civil cover sheet in this matter, it is unclear from Tavares' pleadings to whom the "et al" refers.

Corpus Cases Under Section 2254, the amended petition shall name Steven O'Brien (or such other superintendent as may be appropriate at the time of filing), as respondent.

So Ordered.

/s/ F. Dennis Saylor
F. Dennis Saylor
United States District Judge

Dated: September 7, 2004